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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) D03043 | | | | | | | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ | Application Number 10/796,712 | | Filed March 9, 2004 | | | | | | | | |
| | First Named Inventor Eric Sprunk | | | | | | | | | | |
| | Art Unit 2431 | Examiner Matthew T. Henning | | | | | | | | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding: 5px; text-align: right;">/Larry T. Cullen/ _____ Signature</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding: 5px; text-align: right;">Larry T. Cullen _____ Typed or printed name</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number 44,489</td><td style="vertical-align: top; padding: 5px; text-align: right;">215-323-1797 _____ Telephone number</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; padding: 5px; text-align: right;">October 6, 2010 _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | | <input type="checkbox"/> applicant/inventor. | /Larry T. Cullen/ _____ Signature | <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Larry T. Cullen _____ Typed or printed name | <input checked="" type="checkbox"/> attorney or agent of record. Registration number 44,489 | 215-323-1797 _____ Telephone number | <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | October 6, 2010 _____ Date |
| <input type="checkbox"/> applicant/inventor. | /Larry T. Cullen/ _____ Signature | | | | | | | | | | |
| <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Larry T. Cullen _____ Typed or printed name | | | | | | | | | | |
| <input checked="" type="checkbox"/> attorney or agent of record. Registration number 44,489 | 215-323-1797 _____ Telephone number | | | | | | | | | | |
| <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | October 6, 2010 _____ Date | | | | | | | | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | | | | | | | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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|-------------|--|-------------------|--------------------|
| APPLN. NO.: | 10/796,712 | CONFIRMATION NO.: | 2860 |
| APPLICANT: | Sprunk et al. | TC/ART UNIT: | 2431 |
| FILED: | March 9, 2004 | EXAMINER: | Henning, Matthew T |
| TITLE: | METHOD AND APPARATUS FOR AUTHENTICATING DATA | | |

Pre-Appeal Brief

This reply is being filed electronically

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to the final Office Action mailed April 6, 2010 concerning the above-identified application. A Notice of Appeal and Petition for Extension of Time to respond, with fee authorization, is submitted concurrently herewith. Applicant submits the following amendment and remarks and respectfully requests the Examiner to reconsider the rejections made in the Office Action and to allow the claims to issue.

REMARKS

Claims 15 and 20-22 stand objected to in the Office action for an antecedent issue. However, Applicant previously amended these claims to address this issue. Accordingly, it is not clear if the issue is maintained by the Examiner or if it has been satisfied. Applicant respectfully submits that the issue has been satisfied.

Claims 1, 3, 5-14, 16, 17, 19-21, 23, 31-37, 40, 42 and 43 stand rejected under 35 U.S.C. § 102 as being anticipated by USP 7,480,907 to Marolia.

Marolia does not disclose all of the limitations of independent claims 1 or 23. Marolia is merely concerned with downloading software patches to devices. The Office action cites to column 13, lines 4-23 in rejecting Applicant's above claims. This section of Marolia appears to discuss conventional use of a Cyclic Redundancy Code (CRC), e.g. typically used for data error detection. Marolia simply appears to perform data error detection using the CRC. Even if the CRC could be considered a hash value, *arguendo*, Marolia does not obtain an initial hash value for a set of N blocks, alter one of the blocks, calculate a revised hash value and a check hash value, and compare the check hash value with the initial hash value. At best, Marolia simply appears to perform a conventional CRC check of the current block being processed to make sure a transferred block from one memory source to another does not pick up errors during the transfer, e.g. "another type of validation may be done ... during the re-flash, for fault tolerance, where each block is of flash memory is updated in RAM then copied to a working block in flash memory ... the validation begins when the update agent ... verifies through a CRC that the copy in RAM matches the source in flash memory." Col. 13: 3-12. The updated blocks are also verified to transfer with a CRC check of those blocks for error detection, e.g. "the update agent verifies, also using CRC, that the updated version of the block in RAM matched the CRC of the expected target (new) block" (aka update block). Col. 13: 12-25. In any event, Morolia does not disclose to compare a check hash value from an altered set of blocks with an initial hash value from an initial set of blocks as set forth in at least claim 1. Morolia also does not compare a check root key with an initial root key as set forth in at least claim 23.

Accordingly, Morolia does not anticipate the above claims.

Claims 2, 4, 18, 22, 24, 28 and 41 stand rejected under 35 U.S.C. § 103 as being unpatentable over Marolia alone.

The rejection asserts that it was “well known that can be accomplished concurrently in order to save time and therefore would have been obvious to do so.” However, the rejection has not shown a system which calculates both a revised hash value and a check hash value as set forth in the claims. Accordingly, the conclusion that such would have been obvious to do so in parallel when such is not shown to be done at all is respectfully traversed.

The rejection further asserts that “it was well known to pad blocks when performing a hash operation such that the blocks are the proper length for the hash operation”. However, the Office action has shown no evidence of such, and Applicant respectfully requests such. Further, Applicant’s claim 18 sets forth padding to make blocks equal length rather than a desired size for a hash operation. Accordingly, it is not clear if the rationale in the Office action, even if correct, applies to Applicant’s claim.

Claims 15, 25-27, 29-30, 38 and 39 stand rejected under 35 U.S.C. § 103 as being unpatentable over Marolia in view of USP 5,754,659 to Sprunk.

The addition of Sprunk to Marolia does not cure the deficiencies of Marolia as discussed above, and the Office action does not appear to rely on Sprunk for such. Accordingly, the present claims are believed to be allowable at least for the reasons set forth above.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Date: October 6, 2010

Respectfully submitted,

By: /Larry T. Cullen/

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